



## ALABAMA UTILITY CONTRACTORS ASSOCIATION

**TIM AYERS, EXECUTIVE DIRECTOR**  
**NOVEMBER 2021**

### **Director's Comments:**



I've always been fascinated watching a dog that chases a car, wondering what exactly it would do if it actually caught it. That's sort of how I feel now that the \$1.2 Trillion Infrastructure Investment and Jobs Act (IIJA) was passed by Congress on November 5th, and signed into law by President Biden on November 15th.

The IIJA represents the largest federal investment in the nation's infrastructure since the Eisenhower Administration began building the Interstate highway system in the 1950's. However, with the labor crisis, material price escalation, and supply chain issues that are currently impacting our industry in such a negative way, one has to question how we will handle the additional project opportunities that will be forthcoming as a result of the IIJA's passage.

Unlike the dog chasing the car, we as an industry must have a plan. That plan should include holding our elected officials accountable that the money actually gets spent on legitimate infrastructure projects. We must also proactively develop craft training programs to bring much needed workers into the industry to help safely complete the work, and ensure that unnecessary regulations do not impede timely deliverance of these much needed infrastructure improvements.

Also worth noting this month, on November 12th, the U.S. Court of Appeals for the Fifth Circuit granted a motion to stay OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard, published on November 5, 2021 (86 Fed. Reg. 61402) ("ETS"). The court ordered that OSHA "take no steps to implement or enforce" the ETS "until further court order." While OSHA remains confident in its authority to protect workers in emergencies, OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation.

AUCA will continue to keep our members updated on this subject.

#### **Inside This Issue:**

News & Notes	2-7
Upcoming Events	8-9
CWCC Report	10-11
Fleet Safety	12

*Tim*

# INSTRUCTIONS TO CLAIM A COVID-19 VACCINE EXEMPTION

The Alabama legislature recently passed a law (Act 2021-561) regarding COVID-19 vaccinations and an employee's right to request an exemption to any COVID-19 vaccination mandate. Under the law, an employer that requires its employees to receive a COVID-19 vaccination as a condition of employment must provide access to a universal exemption request form, along with instructions for submitting the form. These forms are available at no charge online at: [VAXEXEMPTION.ALABAMA.GOV](https://vaxexemption.alabama.gov).

## To complete the Exemption Request:

- ⇒ Employee completes the exemption form (including obtaining a medical professional's signature, if applicable).
- ⇒ Employee returns the form to their employer (employees are also encouraged to retain a copy for their personal records).
- ⇒ Employer retains the form for the employee's file.
- ⇒ Employer either approves or denies the exemption request. The employer shall evaluate the request and liberally construe the employee's eligibility for exemption in favor of the employee.
  - According to Section 1(c) of Act 2021-561, the employer shall exempt vaccination as a condition of employment for any employee who has properly completed and submitted the exemption form.
- ⇒ An employer who has denied an employee's request may not terminate the employee on the basis of failing to receive a vaccination for a period of seven calendar days after the denial is issued by the employer, or if a request for review was made, until the administrative law judge or the court issues a final ruling in the employer's favor.
- ⇒ If denied, the employer provides the employee with instructions on how to request an administrative review and must compensate the employee at the same rate of compensation the employee received prior to submitting an exemption form, for a period of seven calendar days after the denial was issued by the employer, or if a request for review is made, until the administrative law judge issues a ruling in the employer's favor (no more than 30 additional calendar days). While the decision to keep an employee physically on the job during this period is at the discretion of the employer, compliance regarding compensation is mandatory.

## To complete a Request for Review:

- ⇒ Employee submits the denied form to the administrative law judge for review via [VAXEXEMPTION.ALABAMA.GOV](https://vaxexemption.alabama.gov). The administrative law judge will issue a ruling within 30 days and will notify both the employee and employer of the decision via email\*.
- ⇒ Once an application for review is received, a notice will be sent to the employer (via email\*) notifying them that a request for review has been filed. The employer will then have three business days to provide any pertinent information to the administrative law judge for consideration regarding an employee's exemption claim.

**\* A VALID EMAIL ADDRESS FOR BOTH THE EMPLOYER AND THE EMPLOYEE IS REQUIRED TO SUBMIT A REQUEST FOR REVIEW.**

[VAXEXEMPTION.ALABAMA.GOV](https://vaxexemption.alabama.gov)



## News & Notes:

### **Alabama Legislative Update:**

Alabama Legislators concluded their second Special Legislative Session on November 4th after meeting for six days in Montgomery. All Congressional, Alabama Senate, House, and State Board of Education redistricting maps passed and were signed into law by Governor Ivey.

Also passing and signed into law was an \$80 million reallocation of American Rescue Act funds for hospitals and Nursing homes throughout the state, and two controversial anti-vaccine mandate bills. One of the anti-vaccine bills (Act 2021-561) pertains to COVID-19 vaccinations and an employee's right to request an exemption to any COVID-19 vaccination mandate. Under the law, employers may not require any employee to receive a COVID-19 vaccination as a condition of employment without providing the employee the opportunity to be exempted from the vaccination for religious or medical reasons.

The 2022 Alabama Regular Legislative Session begins on January 11, 2022.

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### **Infrastructure Investment and Jobs Act (IIJA) Signed Into Law:**

\$1.2 Trillion Infrastructure Investment and Jobs Act (IIJA) was passed by Congress on November 5th, and signed into law by President Biden on November 15th. The IIJA represents the largest federal investment in our nation's infrastructure in nearly a century. While far from perfect, the passage of this legislation will hopefully offer AUCA member companies the opportunity to pursue many significantly needed new infrastructure projects in the near future.

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### **AUCA 2022 Scholarship Program:**

AUCA will open the application process in December for our 2022 Scholarship Program. Up to six \$1,500 scholarships will be awarded to applicants that have not previously received an AUCA scholarship. Deadline for submissions will be February 28th, and winning applicants will be selected at the March 2022 AUCA Board of Directors Meeting.

#### Application Criteria:

- Must be a resident of Alabama.
- Must be enrolling in, or attending a community college, technical school, or university in Alabama.
- Open to any field of study, but preference may be given to applicants enrolled/enrolling in a construction-related curriculum.
- Must be either employed by, or have a parent or grandparent employed by a current AUCA member company.



## News & Notes:

### **Infrastructure Protection Coalition Announces Release of 811 Emergency Study:**

The new study, "811 Emergency," includes an in-depth examination of 811 operations in every state and Washington D.C. and shows these costs and the increased risk to public safety could be substantially reduced if states with the worst records adopt more effective practices and procedures already in use in other parts of the country.

The review was commissioned by the Infrastructure Protection Coalition, a group of associations representing broadband, electric, natural gas, pipeline, transportation, sewer, and water industries who design, construct, maintain, or locate these underground systems with both union and non-union workforces. These are regular users and stakeholders of the 811 system who want to see it run safely and efficiently.

The study was conducted using a painstaking review of records, regulations, laws, and enforcement actions in every state.

[Click here for a link to the Alabama Report](#)

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### **Alabama Damage Prevention Alliance (ADPA) - Large Project Committee:**

The ADPA Large Project Committee will hold a virtual meeting on Monday, December 6th to discuss a rough draft as a potential a starting point for developing a "large project" process in Alabama.

If you would like to participate and help have a voice for your industry, please contact the AUCA Office for additional details.



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**AUCA Newest Member Company:**  
**Elevation Development & Construction, LLC**  
Clanton, AL  
Company Representatives: Jake Lyle & Barry Jones



## News & Notes:

### Alabama Underground Damage Prevention Authority (ALUDPA)

The Alabama Underground Damage Prevention Authority (ALUDPA) was established for the purpose of enforcing the Alabama Underground Damage Prevention State Law, for reviewing penalty provisions, and for reviewing the adequacy of the Alabama State Law Enforcement Program.

The Enforcement Program is a complaint-driven process where a complaint may be submitted against an entity for violation of the Alabama Underground Damage Prevention State Law. A complaint may be submitted as information only and not designated for enforcement penalties.



A complaint may be submitted using the Complaint Form [at this Website](#) no later than 30 days after the occurrence of an alleged violation. The submitted Complaint Form is reviewed by the ALUDPA for determination of an alleged violation and for penalty provisions that may apply. The reported violator is then notified by the ALUDPA that a response may be submitted using the Response Form at this Website no later than 14 days after the ALUDPA notification.

A GUIDE TO ALABAMA'S

# Enforcement Process

HOW TO SUBMIT AND RESPOND TO COMPLAINTS  
AT WWW.ALUDPA.ORG

STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Report any violations within 30 days of incident. Can be reported for info only or enforcement purposes.	Alleged violator will be notified with time/date/location of incident. Alleged violator has 14 days to respond.	Exec. Committee reviews the complaint/response. Then makes a recommendation.	Exec. Committee notifies the alleged violator and complainant of any penalty action recommended.	Alleged violator can accept and pay the penalty, or submit an appeal to be heard by entire Damage Prevention Authority

*News & Notes:*

**AUCA PAC Raffle:**

Through the generosity of AUCA supporters, over \$4,000 was raised for our PAC Fund to help support our continued Legislative efforts at the federal, state, and local levels.



**\$1,000 Cash Prize Winner:**  
**Claud & Erin Nordan - Nordan Contracting Co., Inc.**



# News & Notes:

## AUCA 2022 Calendars:

AUCA has received a limited supply of 2022 AUCA Calendars. If you would like to have one of these hanging on your office wall before they're all gone, please contact the AUCA office and we will make arrangements for delivery.



**Alabama Utility Contractors Association**  
*We Dig Alabama*

Phone: (205) 582-9436 Fax: (205) 582-9155  
[www.aluca.org](http://www.aluca.org)

JANUARY 2022

1 Total Days Elapsed in the Year
364 Total Days Remaining in the Year  
229 Working Days Remaining in the Year (Excluding Saturdays and Sundays)
137 Working Days Remaining in the Year (Excluding Sundays)

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1	2	3	4	1 364 NEW YEAR'S DAY
2 363 NEW MOON	3 362 111	4 361 110	5 360 109	6 359 108	7 358 107	8 357 106
9 356 FIRST QUARTER MOON	10 355 105	11 354 104	12 353 103	13 352 102	14 351 101	15 350 100
16 349 100	17 348 99 FULL MOON	18 347 98	19 346 97	20 345 96	21 344 95	22 343 94
23 342 94	24 341 93	25 340 92 THIRD QUARTER MOON	26 339 91	27 338 90	28 337 89	29 336 88
30 335 88	31 334 87					

2	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
0	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
2	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S



*Upcoming Meetings & Events:*

***8th Annual Construction Industry Summit  
(Presented By the Construction Industry Section  
of the Alabama State Bar and Alabama AGC)***

**Wednesday, December 1, 2021  
Hyatt Regency Wynfrey Hotel — Birmingham**

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***Alabama Damage Prevention Alliance Virtual Meeting***

**December 6, 2021  
10:30 a.m. - 12:30 p.m.**

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***AUCA Board of Directors Meeting***

**Wednesday, December 8, 2021**

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***AUCA 2022 Spring General Meeting,  
Golf Tournament and Shrimp & Crawfish Boil***

**Thursday, April 21, 2022  
Arrowhead Country Club - Montgomery, AL**

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***AUCA 2022 Fall General Meeting  
& Sporting Clay Shoot***

**Thursday, October 13, 2022  
Lower Wetumpka Shotgun Sports Club -  
Montgomery, AL**





**NATIONAL  
TRENCH SAFETY**

## Competent Person for Excavation Safety

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### Course Overview

The Competent Person for Excavation Safety seminar is designed to provide students with an awareness of the 1926 Subpart P Excavation Standard as well as an introduction to current protective system design and selection. For those employees that an employer wishes to designate as a Competent Person the class will cover technical information about Subpart P - The OSHA Excavation Standard.



### Course Topics

- OSHA Excavation Standard
- Soil Analysis and Soil Classification
- Protective System Planning and Selection
- Job Planning Related to Trench Safety
- Competent Person Responsibilities

### Who Should Attend

The class is designed to benefit employees at all levels of an organization including senior management, safety professionals, project managers, project estimators, project superintendents, project foremen and laborers engaged in projects related to the excavation standard.

### › Class Details

- Length: 1 day
- Cost: \$135
- Attendees receive a class manual, certificate suitable for framing and wallet card upon successful completion of the class. Lunch will be provided.

### › Upcoming Classes

**When: Thursday, December 16, 2021**

**Where: 5965 Rangeline Rd.  
Mobile, AL 36582**

**Start Time: 8am**

**How to Book: 251-443-7080**

For a complete list of all upcoming classes by date and location please visit us online at [www.training.ntsafety.com](http://www.training.ntsafety.com)

**1.888.234.9244  
www.ntsafety.com**

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## *Clean Water Construction Coalition Report*

From Dan Kennedy - Chairman CWCC & Sante Esposito - Key Advocates

**November 6, 2021**

### **INFRASTRUCTURE BILL PASSES**

Late Friday evening the House of Representatives passed the long awaited Infrastructure legislation. The CWCC and all of our allies have been vocal advocates for this passage as it meets / exceeds the water infrastructure funding goals (and more) we have long fought for.

We will continue to keep you posted as we get more information. It should be noted that several Republicans broke ranks to support the legislation to overcome holdouts from the Progressive Caucus.

We urge you to send an email to thank the Representatives in your states that supported this bill.

**November 5, 2021**

The House adjourned after 10 p.m. last night as Speaker Pelosi and her leadership team struggled to round up votes to pass the BIF (infrastructure) and the BBB bills. Democratic leadership announced the House will be back in session at 8 a.m. today and votes would happen today. Senior Democrats privately believe they would have the votes to pass BBB: The planned votes today come after Pelosi and her leadership team spent a chaotic Thursday hustling to narrow the number of holdouts on the sweeping bill. Democrats made progress in three key areas: on repealing a Trump-era limit on state and local tax deductions, on immigration reform and on a slightly altered drug pricing deal. However, centrists have raised procedural concerns, such as the lack of cost analysis. Pelosi circulated a letter last night that included budgetary details from White House staff, but several Democrats say they want the details from Congress's independent scorekeepers, not a partisan office.

**November 2, 2021**

### **BIPARTISAN INFRASTRUCTURE FRAMEWORK NUDGES FORWARD**

Speaker Pelosi's revised deadline of Oct. 31 for the House to pass the \$1.2 trillion bipartisan infrastructure bill came and went without action. The showdown between President Biden / Speaker Pelosi and the Congressional Progressive Caucus continues to hold up passage of the Bipartisan Infrastructure Bill (BIF), passed in a bipartisan basis in the Senate in August.

After a much-publicized trip to the Hill by the President, a pared down \$1.75B Build Back Better (BBB) Act framework was released and was endorsed by the House Democratic progressives subject to seeing a full draft. As the full draft was not ready for release, the President left for Glasgow for the COP21 climate change summit empty handed.

Sante Esposito expresses that there is optimism that a vote on BIF (which is an up or down vote on the Senate bill with no amendments allowed) may occur as early as this week. On that note, Senators Manchin and Sinema, while agreeing to the \$1.75B BBB funding level, were noncommittal on their voting for the BBB revised bill. We are grateful to Sante for his work on our behalf as he has



## *Clean Water Construction Coalition Report*

*(Continued from page 10)*

been working tirelessly on behalf of the CWCC.

The following is a summary of the Bipartisan Infrastructure Framework (BIF), which hasn't changed since the last report. The BIF would appropriate for FY22-26 \$12.838B for the Clean Water State SRF, starting at \$2.127B in FY22 and going up to \$2.828B in FY26, and \$35.713B over five years for the Safe Drinking Water SRF, starting at \$6.702B in FY22 and going up to \$7.403B in FY26. This would represent 2-4x increases in annual funding for the SRFs.

No appropriations are included for the Alternative Water Source Projects program (an authorization of \$125M over 5 fiscal years is). For the US Bureau of Reclamation (USBR), the bill appropriates \$8.3B for FY22-26 with an annual cap of \$1.66B per year. The bill lists a number of programs under USBR's jurisdiction with specific appropriated amounts but does not specify annual funding amounts for each program. Either the Interior Appropriations bill will make that decision or the USBR. For water recycling, the bill appropriates \$1B over 5 FY's, broken down to \$550M for Title XVI and WIIN Act grants and \$450M for "large scale" projects (those with project costs >\$500M). Again, regarding the \$550M, the bill doesn't break this down between the two programs, presumably leaving that to either the Interior Appropriations bill or the USBR. The bill also includes \$400M over 5 FY's for WaterSMART programs, \$1.2B for water storage and groundwater, and \$25M for desalination projects.

We are urging all CWCC Members along with your employees, business associates, friends, and family to contact your House Members today and urge them to approve this transformational funding package.



[cleanwaterconstructioncoalition.org](https://cleanwaterconstructioncoalition.org)

## *Fleet Safety:*

*Provided by J. Smith Lanier & Co., a Marsh & McLennan Agency LLC company*

### **Safe Operation of Rear Impact Guards and Protection:**

Effective on December 9, 2021, under Section 393.86 Rear Impact, FMCSA now requires rear impact guards to be inspected yearly on most CMV's.

The rule is to protect passenger vehicles during underride crashes where the vehicle strikes the rear of the CMV.

### **A new final rule from FMCSA & DOT:**

Rear impact guards have been enforced since 1952 by DOT, but until this rule, there was no required driver inspection to be documented. The new rule requires all parts and guards to be in safe operating condition at all times. Operation of a CMV with missing or non-compliant rear impact guards is a violation. Further, those regulated by FMCSA, all CMV's must be inspected every 12 months or more frequently.

A motor carrier cannot place in service a CMV without an annual inspection of rear impact guards and inspection.

Specific inspection items:

- Rear Impact Guard
- Trailers and semi-trailers GVWR of 10,001 pounds
  - Guard not securely attached
    - Broken
    - Missing fasteners
    - Broken welds
    - Metal cracked
    - Other damages
  - Guard
    - Guard horizontal member
      - Within 4 inches of side of vehicle
      - Not more than 22 inches above ground
      - Not more than 12 inches forward from rear of vehicle
      - Does not have a cross section vertical height of at least 100 inches across the entire width
  - Missing Guard
  - Guard is not securing attached



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***AUCA IS A MEMBER-DRIVEN, NEEDS  
FOCUSED TRADE ASSOCIATION CREATED  
SOLELY TO PROMOTE AND ADVANCE THE  
UTILITY INDUSTRY IN THE STATE OF  
ALABAMA.***

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Training Needs**

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